

Montgomery McCracken Walker & Rhoads LLP

427 Madison Avenue, 29th Floor
New York, New York 10022
(212) 201-1931 / (212) 867-9500
Timothy Semenoro (TS-6847)
Eugene J. O'Connor (*pro hac vice*)

Attorneys for Defendant,
DENAK DEPOCULUK VE NAKLIYECILIK A.S.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,	:	STIPULATION OF
	:	LIABILITY AND
Plaintiff,	:	ORDER WITH
	:	RESERVATION OF
-against-	:	RIGHTS AS TO
	:	DAMAGES
DENAK DEPOCULUK VE NAKLIYECILIK A.S	:	Docket No. 14-7336
Defendant,	:	

Defendant, DENAK DEPOCULUK VE NAKLIYECILIK A.S. (hereinafter "DENAK"), by and through its attorneys, MONTGOMERY MCCRACKEN WALKER & RHOADS, LLP, hereby makes the following Stipulation:

IT IS HEREBY STIPULATED by and between DENAK, the owner and operator of the M/V FEYZA and the M/V DENAK TRADER, and the United States of America, a sovereign nation authorized to bring suit on its own behalf and that of its administrative agencies, that DENAK stipulates its liability for an allision that occurred on December 28, 2011, when the M/V FEYZA contacted a pier at the Caven Point Marine

Terminal, a facility owned and operated by the U.S. Army Corps of Engineers. The accident occurred while the vessel was being turned in the channel between the Caven Point Marine Terminal and the Claremont Terminal. DENAK enters into this Stipulation with Reservation of Rights as to Damages with the full knowledge and consent of its insurers.

NOW THEREFORE, for purposes of this litigation only, and to promote a more timely resolution of this matter, Plaintiff United States and Defendant Denak hereby enter into the following stipulations with respect to the claims alleged in the above-captioned action:

1. Defendant Denak admits liability to Count I, the United States' Amended Compl. (Doc. 6) ¶¶ 23-28, which asserts a strict liability claim under Sections 408 and 412 of the Rivers and Harbors Act of 1899, 33 U.S.C. §§ 401-76; and

2. Defendant Denak admits liability to Count II, the United States' Amended Compl. (Doc. 6) ¶¶ 29-32, which addresses Denak's negligence under the general maritime law.

3. In consideration of the foregoing admissions by Defendant Denak, the United States agrees not to prosecute or seek to impose a fine against Denak pursuant to 33 U.S.C. § 411 of the Rivers and Harbors Act of 1899.


NOTWITHSTANDING THE FOREGOING STIPULATION, Denak reserves all rights to contest the nature, extent and causation of all damages claimed by plaintiff, the United States of America, including but not limited to all physical damage to the pier in

question, whether said damages are proximately related to the allision of the M/V FEYZA with that facility on December 28, 2011, or otherwise.

DENAK FURTHER RESERVES all rights to contest any other item or element of loss, cost, damage, expense in any way claimed or asserted by the United States of America arising out of or in any way related to the allision of the M/V FEYZA with the Caven Point Marine terminal on December 28, 2011.

Finally, consistent with the foregoing, Denak reserves all defenses, both factual and legal, which it may have solely as pertains to the damages claimed herein by the United States of America arising out of or in any way connected with the allision of the M/V FEYZA with the Caven Point Marine terminal on December 28, 2011.

These stipulations are approved by and entered as an Order of the Court on this 1st day of JULY, 2015.



JOSEPH E. IRENAS, SENIOR JUDGE
UNITED STATES DISTRICT COURT

Date: June 24, 2015

Attorneys for Plaintiff

Michael A. DiLauro

Michael A. DiLauro
Orla M. Brady
Trial Attorneys
Torts Branch, Civil Division
U.S. Department of Justice
1425 New York Ave., N.W., Ste. 10146
Washington, D.C. 20005
T: (202) 616-4047
F: (202) 616-4002

Attorneys for Defendant

Eugene O'Connor

Eugene O'Connor
Timothy Semenoro
Matteo Bonuzzi
Montgomery McCracken Walker & Rhoads
427 Madison Avenue, 29th Floor
New York, New York 10022
T: (212) 201-1931
F: (212) 867-9500